

DEX A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

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:
EDWARD L. GILMORE, :
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Plaintiff, :
:
VS. : Case No. 1:13-cv-0789
:
ERIC HOLDER, :
:
Defendant. :
:
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Alexandria, Virginia

Thursday, May 29, 2014

Video Deposition of:

KAREN TANDY,
the Witness, called for examination by counsel for
Defendant, pursuant to notice and agreement as to time and
place, at the Drug Enforcement Administration, 600 Army
Navy Drive, Arlington, Virginia, before Edward H.
Schweitzer, a Notary Reporter, where were present on behalf
of the respective parties:

1 APPEARANCES:

2 On Behalf of the Plaintiff:

3 AMANDA MAJOR, ESQ.
4 ERIC MAHR, ESQ.
5 WilmerHale
6 1875 Pennsylvania Avenue, N.W.
7 Washington, D.C.
8 (202) 663-6304

9 On Behalf of the Defendant:

10 R. JOSEPH SHER
11 Assistant United States Attorney
12 United States Attorney's Office
13 2100 Jamieson Avenue
14 Alexandria, Virginia 22314
15 (703) 299-3747

16 Also Present:

17 Michael Williams
18 Videographer
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1 because we had been filling these positions, we were very
2 familiar with the background of the people on the list and
3 their qualifications.

4 And typically, and in this instance it is what
5 happened, we came down to a few names, and then -- off of
6 these lists; then when we got to that point, I would have
7 Michele Leonhart talk to at least one of the prior
8 supervisors of the people on that list, and I would have
9 her talk to others who knew the performance, the real
10 hands-on performance of those people as leaders in their
11 current capacity wherever they are. And she did that in
12 this instance, just as we did in all of those appointments.

13 Q. Did you consider Mr. Gilmore for that position?

14 A. I did not.

15 Q. And why was that?

16 A. There were so many tough issues in this agency,
17 like any federal law enforcement agency. I have never
18 received a call from the head of Justice Management
19 Division or anybody else in the leadership at the
20 Department of Justice raising issues like what were raised
21 here about the timely processing of our background
22 investigations by the Office of Security Programs than
23 under Ed Gilmore. It was extraordinary. It was a matter
24 of concern to me, and I directed Michele Leonhart to get to
25 the bottom of it and fix it.

1 The issue is not just about agency
2 embarrassment, there are so many issues related to this
3 that were of concern. The fact that the Office of
4 Management and Budget, OMB, was raising this about our
5 agency was a reputational issue that could have long-
6 lasting impact to this agency, because it's OMB that holds
7 the purse strings, it's OMB that sets the government's
8 budget, at the President's direction, and it's OMB that
9 determines what funds DEA is going to have or not have in
10 its annual budget.

11 Then the fact that, similarly, the head of
12 Justice Management Division at the Department of Justice
13 was calling directly to us expressing concern about DEA and
14 our handling of these investigations was a matter of
15 concern in terms of the view that the Justice Department
16 has of DEA and how it evaluates our agency for purposes of
17 all manner of budget and decisions as to authorities that
18 it will give or not give to DEA.

19 Then there was another concern still related to
20 this same issue. The other concern was a number of these
21 investigations were the investigations that made a
22 difference whether DEA agents could actually do the
23 mission. Remember, we had about 5,000 agents, and those
24 agents are on the ground around the country and in foreign
25 countries. And I'll tell you, 5,000 agents is not very

1 marked for
2 identification.)

3 BY MR. SHER:

4 Q. Which I'll ask you if you recognize that as a
5 series of emails that you and Ms. Leonhart exchanged in the
6 process of selecting.

7 A. Yes.

8 Q. Okay. I note that Ms. Leonhart sent you an email
9 with some names and telephone numbers. What were you doing
10 with those names and telephone numbers? Why did you
11 want --

12 A. So we went through the process that I described
13 and I selected Barbara Roach for the SES, the new SES in
14 Security Programs, and then I selected Terry Parham for the
15 Executive Planning and -- Executive Policy and Strategic
16 Planning Office, sorry. And so we put them together, the
17 announcement of their selections in a cable, and that's
18 what Exhibit 5 is all about. And this is a cable that goes
19 out to -- think of a cable like a fax. It goes out to all
20 of DEA announcing SES selections, and it comes out from me.

21 So before that goes out, I want to make sure, as
22 a matter of courtesy, that I contact the people who did not
23 get that position, and that I also call the ones who did
24 and congratulate them. And so this list of Doug Biales, Ed
25 Gilmore, Terry Parham and Barbara Roach reflects that call